IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 7111 of 1997

Between:
Ch.Rajeswara Rao, S/o. Komuraiah,
R/o. Vasanthapur, E.No.306074, Ex- Conductor.
Warangal Depot, APSRTC, Warangal Dist.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Warangal.
2 The Regional Manager, APSRTC, Warangal.
3 The Managing Director, V/C., APSRTC,
APSRTC, Musheerabad, Hyderabad.
4 The Industrial Tribunal Cum Labour Court,
rep.by its Presiding Officer, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari to call for the records pertaining to the Award passed in I.D.No.93/92 dt. 19.9.94, on the file of the Industrial Tribunal Cum Labour Court, Warangal, Published in G.O. Rt. No. 664. Labour Employment & Training (LAB) Dept, dt 26.11.94, passed confirming the removal of the petitioner from service, in proceedings No. APSRTC No. 02/62(10)/ 92/WL/I. dt. 26.5.92 as bad in law, arbitrary and illegall and consequently to direct the respondent to reinstate the petitioner with all consequential benefits attached to post, such as scale of pay, seniority etc., in the interest of Justice.

Counsel for the Petitioner: MR.B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondent Nos. 1 to 3.: P. RAJANI REDDY, SC FOR APSRTC

Counsel for the Respondent No.3:GP FOR LABOUR

The Court made the following ORDER:

ORDER:

This writ petition is filed by the workman aggrieved by the Award dated 19.09.1994

passed by the Industrial Tribunal cum Labour Court, Warangal in I.D.No.93/92, under which the Labour Court confirmed the order of removal of the workman from service, passed by the respondent-Corporation.

2. The petitioner-workman was appointed as a casual Conductor in the year 1989 and his services were regularized in August, 1991. While he was conducting the bus on 25.02.1992 on Hanamkonda –Siddipet route, a check was conducted, and cash and ticket irregularities were found, therefore he was charge sheeted. Thereafter, departmental enquiry was conducted. The two charges framed against him as to the alleged re-issue of tickets had been found true, and basing on the enquiry report, an order of removal was passed on 26.05.1992. As the workman was not successful in the departmental appeals, he approached the Labour Court raising an industrial dispute. The Labour Court, after considering the evidence adduced before it, held that there are no defects in the enquiry conducted by the department. Further, while considering the proportionality of the punishment, the Labour Court felt that the workman had indulged in malpractices causing loss to the Corporation. Therefore, the Labour Court held that the workman is not entitled to any lenient view and confirmed the order of removal. Aggrieved by the same, the petitioner has come up with the present writ petition.

3. The learned counsel for the petitioner contended that the Labour Court was not justified in not only confirming the findings of the Enquiry Officer and the disciplinary authority, but also in confirming the order of removal. The learned counsel further contended that the Labour Court in fact did not properly considered the claim of the petitioner-workman as to the proportionality of the punishment in terms of the Section 11-A of the Industrial Disputes Act, 1947 (for short 'the Act'). Therefore, he sought to consider the proportionality of the punishment even assuming that the charges levelled against the petitioner were found to have been proved. He further contended that the order of removal imposed on the petitioner is disproportionate to the gravity of the charges. Therefore, sought for modification of the said order.

4. The learned Standing Counsel for the Corporation, P. Rajani Reddy, however, sought to support the order of the Award. The learned counsel contended that when the petitioner was found to have been indulged in cash and ticket irregularities, which was proved beyond doubt, the petitioner is not entitled for any relief. The learned counsel also contended that if a lenient view is taken with reference to the

persons, who are dealing with the cash of the Corporation and have committed cash and ticket irregularities, it would be difficult to the Corporation to manage its affairs. Therefore, there is no justification to take any lenient view. Hence, she sought to confirm the order.

5. Heard both sides and considered the material available on record.

6. The petitioner-workman, who was appointed as a Conductor in the year 1989 was removed from service in the year 1992 on cash and ticket irregularities. The said order of removal was assailed before the Labour Court. The Labour Court, on appreciation of the material available on record, confirmed the order of removal holding that there are no irregularities in the enquiry conducted by the Corporation. With reference to the proportionality of the punishment, the Labour Court did not consider the issue properly. In the normal course, this Court ought to have remanded the matter to the Labour Court for fresh consideration. But, in view of the long lapse of time from the date of the petitioner's removal from service as well as the date of the award, which was passed in the year 1994, this Court is inclined to consider this issue on merits.

7 . No doubt, it is alleged that the petitioner had indulged in cash and ticket irregularities and accordingly two charges were framed with reference to re-issue of a ticket with a denomination of Rs.2.25 and the second charge is with reference to the alleged re-issue of two tickets of denomination of Rs.3.00. Even assuming that the charges were found to be true against the petitioner, as he had already suffered sufficient punishment having been out of service for the last 12 years, it would not be proper and just to deprive the right of the employee forever for the offence committed by him. The punishment of removal from service is too harsh and not proportionate to the gravity of the charges levelled against him.

8 . Under the above circumstances, the order of the Labour Court to the extent of confirmation of the order of removal is set aside and the respondents are directed to reinstate the petitioner as a fresh Conductor. The petitioner is not entitled to any benefits of his past service.

9. The writ petition is accordingly allowed in part. No costs.

_____

S.Ananda Reddy, J

11th November, 2004

va

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Eleventh day of November, Two Thousand and Four.

To

1 The Depot Manager, APSRTC, Warangal.
2 The Regional Manager, APSRTC, Warangal.
3 The Managing Director, V/C., APSRTC,
APSRTC, Musheerabad, Hyderabad.
4 The Presiding Officer, Industrial Tribunal Cum Labour Court,
Warangal.
5 Two CCs to G.P for Labour, High Court of A.P. Buildings, Hyderabad (OUT)
6 Two CD Copies